

Page -2-

REMARKS

Claims 1 to 16 are currently of record in the present application. All of Claims 1 to 16 currently stand as being rejected as being obvious under 35 USC § 103(a) over Beliveau (US Patent No. 6230462) in view of Gibbs (US Patent No. 2797840).

The Applicant respectfully traverses this rejection, as discussed hereinbelow.

Priority Claim

The Examiner notes that the priority document has not yet been filed in respect of the present application. The Applicant is in the process of obtaining this document, and this document will be provided shortly.

Claim Rejections - 35 USC § 103

Claims 1 to 16 currently stand as being rejected under 35 USC § 103(a) as being obvious over Beliveau (US Patent No. 6230462) in view of Gibbs (US Patent No. 2797840). The Applicant respectfully traverses this rejection.

It is noted that Beliveau describes a concrete wall form which has two parallel panels and a series of connectors to connect each panel to the other while concrete is being poured into the form. The connectors have attachment pieces that are attached to each panel of the form, and a connecting piece that spans the gap between the panels to connect to each attachment piece. The connecting piece is attached to the attachment pieces on each panel by use of a hinge assembly which is formed by sliding the enlarged end of the connecting piece (or "pin") through a series of tube-like "knuckles" located on the attachment piece.

The primary distinction between the present invention, and the Beliveau device is the design of the hinge element. In the Beliveau document, the hinge two opposed knuckle sections, while in the present invention, the knuckle sections of the hinge are vertically offset rather than being in an opposed relationship.

As the Examiner is likely aware, in use, numerous hinge sections are consumed in the pouring of even a simple insulated concrete wall. These hinge sections remain in the wall and

Page -3-

therefore the cost of the wall is directly related to the cost of, inter alia, the hinge sections.

The hinge sections are manufactured by injection molding systems, and a major disadvantage of the Beliveau design is that it is impossible to produce the wall attachment piece, with the opposed knuckle section in a single step. This is because Beliveau produces a hinge section wherein each "tube-like knuckle (36) forms an inner tube (38) having a pair of longitudinal opposed edge portions (40) defining a slot (42)". As such, Beliveau provides a tube section in which the inner tube is virtually surrounded by plastic material. As the Examiner will also note, unless a complex mold arrangement is used, or a two step process is utilized, the Beliveau design cannot be manufactured in a single step on an injection molding machine.

In contrast, the Applicant has realized that the device of Beliveau can be modified to have an offset knuckle arrangement that permits the device to be manufactured in a single step on an injection molding machine. This greatly reduces the cost of the mold, and allows the processing time for each piece to be reduced. The combination of these factors allows the overall cost of the system to be reduced.

The Examiner has objected to Claims 1 and 9 and indicates at the bottom of page 2 of the Action that it would have been obvious to the skilled artisan to modify the Beliveau device with the Gibbs hinge since "such a modification would be easier to manufacture and more cost effective". However, the Applicant contends that the importance of the cost savings of this modification should not be lightly dismissed, since in a competitive market that consumes numerous hinge assemblies in even a simple insulated concrete form wall, the cost of the hinge section is significant.

Further, as discussed hereinbelow, the skilled artisan would not be taught of the cost efficiency of the present invention since neither Gibbs or Beliveau provide any teaching or motivation to address this issue, and that, in fact, Gibbs provides an offset hinge arrangement for a reason which is totally irrelevant to the skilled artisan utilizing insulated concrete form walls.

In detail, however, the Applicant contends that the Beliveau disclosure teaches only the use of the opposed knuckle design, and Beliveau is totally silent as to the offset knuckle design approach. Accordingly, there is nothing in the Beliveau document which would suggest or motivate the skilled artisan to adopt the approach taken in the present invention even though, as

Page -4-

the Examiner has acknowledged, significant cost savings would be realized using an offset knuckle design

The Examiner, however, has therefore cited the Gibbs document to provide the feature of the offset knuckle feature of the present design, and contents that the skilled artisan would find the present invention to be obvious in view of the combination of the two cited documents. The Applicant respectfully traverses this proposed combination.

First, the Applicant contends that the Gibbs document is directed to non-analogous prior art. Gibbs is directed to a container having a hinged cover. Other than sharing a hinge element, there is nothing that connects the Gibbs document to the present invention, and that those seeking to address issues of relevance to the insulated concrete form industry, would not review the patents issued in respect of simple containers, and/or patents addressed at lids for such containers.

Second, even if the Gibbs document is directed to analogous prior art, it is noted that while Gibbs shows an offset hinge element, the purpose of his offset design is to provide a hinge that can only be assembled in one configuration, and that when moved to any other configuration, the hinge cannot be disassembled. Thus, Gibbs indicates that when the lid is totally open, the pintle "40" can be inserted into the offset knuckles. However, once partially closed, the pintle cannot be removed from the knuckles without damaging the hinge elements (See Gibbs at column 3, lines 28 to 35). Thus, although Gibbs seeks to avoid the use of more expensive prior art hinge assemblies, these prior art hinges are not disclosed. Further, Gibbs does not use the offset knuckle design for the reduction of cost in the injection molding process, but instead, uses the offset knuckle design in order to provide a hinge that can only be assembled or disassembled in one configuration but which cannot be disassembled in other configurations. As a result, Gibbs provides a solution to the problem of inadvertent lid and/or hinge removal by providing a hinge that can only be removed from the container in one specific configuration.

However, in the present invention, this aspect is totally unnecessary, irrelevant and/or unwarranted. The user of the insulated concrete form is not concerned with ensuring that the hinge of the present invention can only be assembled or disassembled in one configuration since this is not a problem within this industry. As such, the user of the devices of the present invention

Page -5-

simply do not encounter the problem which Gibbs seeks to address with his hinge design. Accordingly, the skilled artisan would dismiss the teachings of Gibbs with respect to insulated concrete forms, and would have no motivation or incentive to combine the teachings of Gibbs with the teachings of Beliveau.

Since Gibbs addresses an issue that is irrelevant in the insulated concrete form industry, the skilled artisan would therefore not combine the Gibbs document with Beliveau in order to solve the problem which has been identified by the present invention, namely, providing a hinge arrangement that can be more easily, and more cost effectively produce, an offset knuckle, hinge device as shown in the present invention, on an injection molding machine. There is nothing in either the Gibbs or Beliveau document which would suggest this advantage to the skilled artisan, and therefore, there is no motivation to combine the cited prior art.

Accordingly, the Applicant contends that the combined teachings of Gibbs and Beliveau would not lead the skilled artisan to the present invention. At best, the teachings of these documents might suggest a solution to a problem with locking the hinge pieces together, but, as previously stated, this problem is not an issue in this industry.

Claims 1 and 9 clearly require the use of offset knuckle design which feature is not provided by Beliveau, and which is not an obvious modification of Beliveau when combined with the disclosure or teachings of Gibbs. As a result, the Applicant contends that Claims 1 and 9 are allowable over the cited prior art.

With respect to the remaining objections to the claims, the Applicant notes that all of the remaining claims are all directly or indirectly dependent on Claims 1 or 9. As such, the Applicant contends that all of these claims are also allowable in their present format.

Page -6-

It is believed that with these comments, a full and complete response to the Office Action of November 9, 2005 has now been submitted. Further, it is believed that the present application is now in condition for allowance, and early notification to that effect is respectfully requested.

Should there be any remaining issues, the Examiner is requested to contact the undersigned by telephone in order to discuss or clarify any outstanding issues.

Respectfully submitted,
Gowan Intellectual Property



Gowan Intellectual Property
1075 North Service Road West
Suite 203
Oakville, Ontario
CANADA L6M 2G2
T: 905-827-5000
F: 905-827-5087

Per: Gerald A. Gowan
Registered Patent & Trade-Mark Agent
Regn. No. 37,041 - Client No. 58388
email: ggowan@gowanip.com

GAG: tim